

By: Meier

S.B. No. 1149

A BILL TO BE ENTITLED
AN ACT

relating to the financing and conduct of primary elections;

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (c) and (e), Section 186, Texas Election Code, as amended (Article 13.08, Vernon's Texas Election Code), ^{is} ~~is~~ amended to read as follows:

“(c) The schedule of fees for either a full term or an unexpired term for the various offices is as follows:

United States Senator.....	\$2,000
All other statewide offices.....	1,500
United States representative.....	1,500
State senator.....	750
State representative.....	400
Member, state board of education.....	250
Chief justice or associate justice, court of civil appeals.....	750
District judge or judge of any court having status of a district court as classified in Section 61c of this code.....	700 ^{1/2} CP
District attorney or criminal district attorney or a county attorney that performs the same functions as either of the above.....	600
All county offices, as classified in Section 61c, except county surveyor and inspector	

S. B. No. 1149

of hides and animals	300
County surveyor or inspector of hides	
and animals	50
County Commissioner,	
County of 200,000 or more inhabitants.....	600
County under 200,000 inhabitants	300
Justice of the peace or constable,	
County of 200,000 or more inhabitants	500
County under 200,000 inhabitants	200
Public weigher	50

\\ No fee shall be charged for any office of a political party.

Filing fees are state money and may be used only as provided by this code. The secretary of state by directive may prescribe procedures for accounting for filing fees by the officers ^{who} ~~that~~ receive them.

\\ (e) The fees paid to the county chairman on applications filed with him pursuant to the provisions of Section 190 of this code, as amended (Article 13.12, Vernon's Texas Election Code), the apportionment of fees received from the state chairman pursuant to this subsection, and any contributions made to the county chairman or the county executive committee for the specific purpose of helping defray the costs of the primary elections shall be deposited to the credit of the primary fund referred to in Section 196 of this code, as amended (Article 13.18, Vernon's Texas Election Code), and shall be applied to payment of the costs of the primary elections. The county chairman and the committee may also use any other available funds toward defraying costs. The

S.B. No. 1149

remaining costs incurred shall be borne by the state except as otherwise provided by procedures outlined in this code. Within five days after the regular filing deadline, the chairman of the state executive committee shall forward to the secretary of state an itemized listing of all filing fees for statewide offices and for district offices collected on applications filed with him pursuant to Section 190. At the same time, the state chairman shall also forward all filing fees for district offices collected by him pursuant to Section 190 to the county chairmen for the counties lying partially or wholly within such district and shall notify the secretary of state in writing of the amount sent to each county. The amount forwarded to each county chairman shall be equal to the quotient obtained upon dividing the appropriate filing fee by the number of counties in the district of the candidate paying the fee. The state chairman shall retain all filing fees for statewide offices and all filing fees for district offices paid to him under filing deadlines falling after the regular deadline and shall apply them to the sole use of helping defray the costs incurred by the state chairman and the state executive committee in conducting the primary elections. //

SECTION 2. Section 186, Texas Election Code, as amended (Article 13.08, Vernon's Texas Election Code), is amended by adding Subsection (n) to read as follows:

(n) In addition to any other method of accounting for filing fees paid to a county chairman, the secretary of state at any time may require a county chairman to file with the secretary a written report on the filing fees paid to the county chairman. The county

S.B. No. 1149

chairman shall include in the report all information requested by the secretary of state. The secretary may require the county chairman to submit, in addition to the report, any supporting documentation that the secretary determines necessary to verify the report.

SECTION 3. Subsections (a), (b), and (h), Section 186a, Texas Election Code, as amended (Article 13.08a, Vernon's Texas Election Code), are amended to read as follows:

(a) Each county chairman of each political party in the state which is holding primary elections shall submit to the secretary of state at least 45 ~~(30)~~ days before the first primary^{2/3} election a sworn itemized estimate of the costs for conducting the first primary election in his county, together with a sworn statement of the filing fees and contributions received by the chairman, for such primary elections to and including the date of such sworn statement. The secretary of state shall review the estimate and shall notify the chairman of any items which he has disallowed as unauthorized or excessive expenditures. Expenditures may be allowed only for those purposes which are properly payable out of the primary fund under existing law as established by the statutes, court decisions, and administrative rulings of this state. Any other provisions of this code notwithstanding, the secretary of state shall pay for expenditures which, in his discretion, are reasonably necessary for the proper conduct and supervision of the primary elections under the provisions of this code. The secretary of state is authorized to set forth guidelines to determine the necessity of expenditures in conducting primary

S.B. No. 1149

elections. The secretary of state shall subtract from the approved estimate any balance remaining from previous primary elections in the appropriate primary fund, and any amount of the fees and contributions received by the chairman for the conduct and financing of the primary elections for the particular year, and shall certify to the comptroller of public accounts the net estimated amount which is payable out of the state funds, together with the secretary of state's calculation of three-fourths of that amount or if the secretary determines that a sum greater than three-fourths of that amount is necessary or desirable for the proper holding of the primary in the county, the secretary's calculation of the greater amount. The comptroller shall forthwith issue a warrant to the chairman for three-fourths of the certified amount or if the secretary of state directs payment of a greater amount, a warrant for the greater amount.

"(b) In each county in which a second or runoff primary is necessary, within 10 days after the first primary the county chairman shall submit to the secretary of state a sworn itemized estimate of the costs of the runoff primary. As in the case of the first primary, the secretary of state shall notify the chairman of items which he disallows, and shall certify to the comptroller the approved estimated amount which is payable out of state funds, together with the secretary of state's calculation of three-fourths of that amount or greater sum, as provided by Subsection (a) of this section for the general primary. The [~~;-and-the~~] comptroller shall issue a warrant to the chairman for three-fourths of the certified amount or if the secretary of state directs payment of a

S.B. No. 1149

greater amount, a warrant for the greater amount. //

((h) Wherever the word "county chairman" is used in this section, it shall apply to the county chairman or his successor in office[; -and-such-county-chairman-shall-not-be-personally-liable except-for-the-misapplication-of-funds]. //

SECTION 4. Section 186a, Texas Election Code, as amended (Article 13.08a, Vernon's Texas Election Code), is amended by adding Subsections (j) and (k) to read as follows:

((j) A county chairman shall secure the approval of the secretary of state before entering into a contract, whether written or oral, that involves expenditure of the primary fund if the contract is to be made at any time before the county chairman submits his estimate of primary election costs to the secretary of state. The secretary may disallow any item of expenditure contracted for without the approval required by this subsection.

((k) The secretary of state by directive may establish reasonable conditions on the expenditure of state money to pay for professional services retained by a county chairman. //

SECTION 5. Subsection (a), Section 186a-1, Texas Election Code, as ~~amended~~ ^{added} (Article 13.08a-1, Vernon's Texas Election Code), is amended to read as follows:

((a) If the state executive committee of a political party which is holding primary elections wishes to obtain state financing of the expenses incurred by the state chairman and the committee in conducting the primary elections in addition to the filing fees retained by the state chairman under Section 186 of this code, as amended (Article 13.08, Vernon's Texas Election Code), the state

3/27/49

S.B. No. 1149

chairman shall submit to the secretary of state at least 45 ~~30~~ days before the first primary elections a sworn itemized estimate of the costs for conducting the first primary, together with an itemized statement of any filing fees received by him under filing deadlines falling after the regular deadline to and including the date of the estimate and a statement of the amount of any balance remaining from previous primary elections. The secretary of state shall review the estimate and shall notify the chairman of any items which he has disallowed as unauthorized or excessive expenditures. No expenditure in connection with a party convention or with any party activity other than the conduct of a primary election may be allowed. The secretary of state is authorized to set forth guidelines to determine the necessity of expenditures in conducting primary elections. The secretary of state shall subtract from the approved estimate the amount of the fees collected and retained by the state chairman for that election year and any balance remaining from previous primary elections and shall certify to the comptroller of public accounts the net estimated amount which is payable out of state funds, together with the secretary of state's calculation of three-fourths of that amount. The comptroller shall forthwith issue a warrant to the chairman for three-fourths of the certified amount.

SECTION 6. Subdivision 5, Section 196, Texas Election Code, as amended (Article 13.18, Vernon's Texas Election Code), is amended to read as follows:

" Subdiv. ¹⁹⁶5. The funds received by the county executive committee from contributions, fees and assessments paid by

S.B. No. 1149

candidates, and expenses paid by the secretary of state shall constitute the primary fund, and any surplus remaining in the fund after payment of the necessary expenses for holding the primary elections for that year shall be retained in the primary fund, and the balance reported to the secretary of state as required by Section 186a of this code. The county executive committee is authorized to invest the primary fund by deposit with any federally insured institution; provided, however, that the required length of time of the deposit shall not extend beyond 30 days prior to the next general primary election. The secretary of state may require the county chairman to remit a portion of the balance in the primary fund if the secretary determines that an excess of funds are in the account; however, the secretary must allow for the retention of a surplus amount which in his opinion will be adequate for the chairman to use for initial expenses for the next primary election. The county chairman is the custodian of the primary fund and serves in that capacity as a fiduciary for the fund. The secretary of state by directive may prescribe procedures for accounting for the primary fund, including the keeping of checks, receipts, invoices, and other documents that indicate the nature or amount of deposits to or expenditures from the fund. The secretary may inspect any records relating to the primary fund at any place and at any time. A county chairman shall mail the records to the secretary on request at the time specified by the secretary. *W*

SECTION 7. Subsection (a), Section 11, Texas Election Code, as amended (Article 2.03, Vernon's Texas Election Code), is amended to read as follows:

S. B. No. 1149

"(a) In all cases where it is practical^{to} be to do so, all elections--general, special, or primary--shall be held in some schoolhouse, fire station, or other public building within the limits of the election precinct in which such election is being held. No charge shall be made for the use of such buildings^{if} [; except-that-any-additional-expense-actually-incurred-by-the authorities-in-charge-of-the-building-on-account-of-the-holding-of-the-election-therein-shall-be-repaid-to-them-by-the-authority liable-for-the-expenses-of-holding-the-election-under-the-existing law.--The-authority-liable-for-the-expenses-of-the-election-may demand-an-itemized-statement-of-the-additional-expense-incurred-for use-of-the-building-before-making-its-remittance-for-such-expense]. If no public building is available, the election may be held in some other building, and any charge for its use shall be paid as an expense of the election."

SECTION 8. The importance of this legislation and the ^{4/15} crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

By: Meier

S.B. No. 1149

(In the Senate - Filed March 14, 1979; March 15, 1979, read first time and referred to Committee on State Affairs; March 27, 1979, reported favorably, as amended; March 27, 1979, sent to printer.)

COMMITTEE AMENDMENT NO. 1

By: Blake

Strike Section 6 of the bill as it presently reads and replace with the following Section:

"SECTION 6. Subdivision 5, Section 196, Texas Election Code, as amended (Article 13.18, Vernon's Texas Election Code), is amended to read as follows:

"Subdivision 5. The funds received by the county executive committee from contributions, fees and assessments paid by candidates, and expenses paid by the secretary of state shall constitute the primary fund, and any surplus remaining in the fund after payment of the necessary expenses for holding the primary elections for that year shall be retained in the primary fund, and the balance reported to the secretary of state as required by Section 186a of this code. The county executive committee is authorized to invest the primary fund by deposit with any federally insured institution; provided, however, that the required length of time of the deposit shall not extend beyond 30 days prior to the next general primary election. After the primary election has been held and the secretary of state has determined that a deficit exists in the state primary fund resulting from the cost of conducting the primary election, then the secretary of state may require the county chairman to remit a portion of the balance in the county primary fund if the secretary determines that an excess of funds is in the county primary fund; however, the secretary must allow for the retention of a surplus amount which in his opinion will be adequate for the chairman to use for initial expenses for the next primary election. The county chairman is the custodian of the county primary fund and serves in that capacity as a fiduciary for the fund. The secretary of state by directive may prescribe procedures for accounting for the county primary fund, including the keeping of checks, receipts, invoices, and other documents that indicate the nature or amount of deposits to or expenditures from the fund. The secretary may inspect any records relating to the county primary fund at any place and at any time. A county chairman shall mail the records to the secretary on request at the time specified by the secretary."

A BILL TO BE ENTITLED
AN ACT

relating to the financing and conduct of primary elections; amending the Texas Election Code, as amended, by amending Sections 186(c) and (e), 186a(a), (b), and (h), 186a-1(a), Subdivision 5 of 196, and 11(a) and adding Sections 186(n) and 186a(j) and (k) (Articles 13.08(c) and (e), 13.08a(a), (b), and (h), 13.08a-1(a), Subdivision 5 of 13.18, and 2.03(a) and Articles 13.08(n) and 13.08a(j) and (k), Vernon's Texas Election Code).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (c) and (e), Section 186, Texas Election Code, as amended (Article 13.08, Vernon's Texas Election Code), are amended to read as follows:

"(c) The schedule of fees for either a full term or an unexpired term for the various offices is as follows:

United States Senator.....	\$2,000
All other statewide offices.....	1,500
United States representative.....	1,500
State senator.....	750
State representative.....	400
Member, state board of education.....	250
Chief justice or associate justice, court of civil appeals.....	750
District judge or judge of any court having status of a district court as classified in Section 61c of this code.....	700

1	District attorney or criminal district attorney	
2	or a county attorney that performs the same	
3	functions as either of the above.....	600
4	All county offices, as classified in Section	
5	61c, except county surveyor and inspector	
6	of hides and animals.....	300
7	County surveyor or inspector of hides	
8	and animals.....	50
9	County Commissioner,	
10	County of 200,000 or more inhabitants.....	600
11	County under 200,000 inhabitants.....	300
12	Justice of the peace or constable,	
13	County of 200,000 or more inhabitants.....	500
14	County under 200,000 inhabitants.....	200
15	Public weigher.....	50

16 "No fee shall be charged for any office of a political party.
 17 Filing fees are state money and may be used only as provided by
 18 this code. The secretary of state by directive may prescribe
 19 procedures for accounting for filing fees by the officers who
 20 receive them.

21 "(e) The fees paid to the county chairman on applications
 22 filed with him pursuant to the provisions of Section 190 of this
 23 code, as amended (Article 13.12, Vernon's Texas Election Code), the
 24 apportionment of fees received from the state chairman pursuant to
 25 this subsection, and any contributions made to the county chairman
 26 or the county executive committee for the specific purpose of
 27 helping defray the costs of the primary elections shall be
 28 deposited to the credit of the primary fund referred to in Section
 29 196 of this code, as amended (Article 13.18, Vernon's Texas
 30 Election Code), and shall be applied to payment of the costs of the
 31 primary elections. The county chairman and the committee may also
 32 use any other available funds toward defraying costs. The
 33 remaining costs incurred shall be borne by the state except as
 34 otherwise provided by procedures outlined in this code. Within
 35 five days after the regular filing deadline, the chairman of the
 36 state executive committee shall forward to the secretary of state
 37 an itemized listing of all filing fees for statewide offices and
 38 for district offices collected on applications filed with him
 39 pursuant to Section 190. At the same time, the state chairman
 40 shall also forward all filing fees for district offices collected
 41 by him pursuant to Section 190 to the county chairmen for the
 42 counties lying partially or wholly within such district and shall
 43 notify the secretary of state in writing of the amount sent to each
 44 county. The amount forwarded to each county chairman shall be
 45 equal to the quotient obtained upon dividing the appropriate filing
 46 fee by the number of counties in the district of the candidate
 47 paying the fee. The state chairman shall retain all filing fees
 48 for statewide offices and all filing fees for district offices paid
 49 to him under filing deadlines falling after the regular deadline
 50 and shall apply them to the sole use of helping defray the costs
 51 incurred by the state chairman and the state executive committee in
 52 conducting the primary elections."

53 SECTION 2. Section 186, Texas Election Code, as amended
 54 (Article 13.08, Vernon's Texas Election Code), is amended by adding
 55 Subsection (n) to read as follows:

56 "(n) In addition to any other method of accounting for
 57 filing fees paid to a county chairman, the secretary of state at
 58 any time may require a county chairman to file with the secretary a
 59 written report on the filing fees paid to the county chairman. The
 60 county chairman shall include in the report all information
 61 requested by the secretary of state. The secretary may require the
 62 county chairman to submit in addition to the report any supporting
 63 documentation that the secretary determines necessary to verify the
 64 report."

65 SECTION 3. Subsections (a), (b), and (h), Section 186a,
 66 Texas Election Code, as amended (Article 13.08a, Vernon's Texas
 67 Election Code), are amended to read as follows:

68 "(a) Each county chairman of each political party in the
 69 state which is holding primary elections shall submit to the
 70 secretary of state at least 45 [30] days before the first primary

election a sworn itemized estimate of the costs for conducting the first primary election in his county, together with a sworn statement of the filing fees and contributions received by the chairman, for such primary elections to and including the date of such sworn statement. The secretary of state shall review the estimate and shall notify the chairman of any items which he has disallowed as unauthorized or excessive expenditures. Expenditures may be allowed only for those purposes which are properly payable out of the primary fund under existing law as established by the statutes, court decisions, and administrative rulings of this state. Any other provisions of this code notwithstanding, the secretary of state shall pay for expenditures which, in his discretion, are reasonably necessary for the proper conduct and supervision of the primary elections under the provisions of this code. The secretary of state is authorized to set forth guidelines to determine the necessity of expenditures in conducting primary elections. The secretary of state shall subtract from the approved estimate any balance remaining from previous primary elections in the appropriate primary fund, and any amount of the fees and contributions received by the chairman for the conduct and financing of the primary elections for the particular year, and shall certify to the comptroller of public accounts the net estimated amount which is payable out of the state funds, together with the secretary of state's calculation of three-fourths of that amount or if the secretary determines that a sum greater than three-fourths of that amount is necessary or desirable for the proper holding of the primary in the county, the secretary's calculation of the greater amount. The comptroller shall forthwith issue a warrant to the chairman for three-fourths of the certified amount or if the secretary of state directs payment of a greater amount, a warrant for the greater amount.

"(b) In each county in which a second or runoff primary is necessary, within 10 days after the first primary the county chairman shall submit to the secretary of state a sworn itemized estimate of the costs of the runoff primary. As in the case of the first primary, the secretary of state shall notify the chairman of items which he disallows, and shall certify to the comptroller the approved estimated amount which is payable out of state funds, together with the secretary of state's calculation of three-fourths of that amount or greater sum as provided by Subsection (a) of this section for the general primary. The[+and-the] comptroller shall issue a warrant to the chairman for three-fourths of the certified amount or if the secretary of state directs payment of a greater amount, a warrant for the greater amount."

"(h) Wherever the word 'county chairman' is used in this section, it shall apply to the county chairman or his successor in office~~[+and-such-county-chairman-shall-not-be-personally-liable except-for-the-misapplication-of-funds]~~."

SECTION 4. Section 186a, Texas Election Code, as amended (Article 13.08a, Vernon's Texas Election Code), is amended by adding Subsections (j) and (k) to read as follows:

"(j) A county chairman shall secure the approval of the secretary of state before entering into a contract whether written or oral that involves expenditure of the primary fund if the contract is to be made at any time before the county chairman submits his estimate of primary election costs to the secretary of state. The secretary may disallow any item of expenditure contracted for without the approval required by this subsection.

"(k) The secretary of state by directive may establish reasonable conditions on the expenditure of state money to pay for professional services retained by a county chairman."

SECTION 5. Subsection (a), Section 186a-1, Texas Election Code, as added (Article 13.08a-1, Vernon's Texas Election Code), is amended to read as follows:

"(a) If the state executive committee of a political party which is holding primary elections wishes to obtain state financing of the expenses incurred by the state chairman and the committee in conducting the primary elections in addition to the filing fees retained by the state chairman under Section 186 of this code, as amended (Article 13.08, Vernon's Texas Election Code), the state

chairman shall submit to the secretary of state at least 45 [30] days before the first primary elections a sworn itemized estimate of the costs for conducting the first primary, together with an itemized statement of any filing fees received by him under filing deadlines falling after the regular deadline to and including the date of the estimate and a statement of the amount of any balance remaining from previous primary elections. The secretary of state shall review the estimate and shall notify the chairman of any items which he has disallowed as unauthorized or excessive expenditures. No expenditure in connection with a party convention or with any party activity other than the conduct of a primary election may be allowed. The secretary of state is authorized to set forth guidelines to determine the necessity of expenditures in conducting primary elections. The secretary of state shall subtract from the approved estimate the amount of the fees collected and retained by the state chairman for that election year and any balance remaining from previous primary elections and shall certify to the comptroller of public accounts the net estimated amount which is payable out of state funds, together with the secretary of state's calculation of three-fourths of that amount. The comptroller shall forthwith issue a warrant to the chairman for three-fourths of the certified amount."

SECTION 6. Subdivision 5, Section 196, Texas Election Code, as amended (Article 13.18, Vernon's Texas Election Code), is amended to read as follows:

"Subdivision 5. The funds received by the county executive committee from contributions, fees and assessments paid by candidates, and expenses paid by the secretary of state shall constitute the primary fund, and any surplus remaining in the fund after payment of the necessary expenses for holding the primary elections for that year shall be retained in the primary fund, and the balance reported to the secretary of state as required by Section 186a of this code. The county executive committee is authorized to invest the primary fund by deposit with any federally insured institution; provided, however, that the required length of time of the deposit shall not extend beyond 30 days prior to the next general primary election. The secretary of state may require the county chairman to remit a portion of the balance in the primary fund if the secretary determines that an excess of funds are in the account; however, the secretary must allow for the retention of a surplus amount which in his opinion will be adequate for the chairman to use for initial expenses for the next primary election. The county chairman is the custodian of the primary fund and serves in that capacity as a fiduciary for the fund. The secretary of state by directive may prescribe procedures for accounting for the primary fund, including the keeping of checks, receipts, invoices, and other documents that indicate the nature or amount of deposits to or expenditures from the fund. The secretary may inspect any records relating to the primary fund at any place and at any time. A county chairman shall mail the records to the secretary on request at the time specified by the secretary."

SECTION 7. Subsection (a), Section 11, Texas Election Code, as amended (Article 2.03, Vernon's Texas Election Code), is amended to read as follows:

"(a) In all cases where it is practicable to do so, all elections--general, special, or primary--shall be held in some schoolhouse, fire station, or other public building within the limits of the election precinct in which such election is being held. No charge shall be made for the use of such building [except--that--any--additional--expense--actually--incurred--by--the authorities--in-charge-of-the-building-on-account-of-the-holding-of-the-election-therein-shall-be-repaid--to--them--by--the--authority liable--for-the-expenses-of-holding-the-election-under-the-existing law--The-authority-liable-for-the-expenses-of-the-election--may demand-an-itemized-statement-of-the-additional-expense-incurred-for use-of-the-building-before-making-its-remittance-for-such-expense]. If no public building is available, the election may be held in some other building, and any charge for its use shall be paid as an expense of the election."

SECTION 8. The importance of this legislation and the

crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

* * * * *

Austin, Texas
March 27, 1979

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on State Affairs, to which was referred S.B. No. 1149, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, as amended, and be printed.

Moore, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 23, 1979

Honorable William T. (Bill) Moore, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

In Re: Senate Bill No. 1149
By: Meier

Sir:

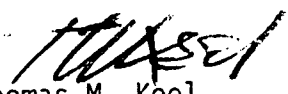
In response to your request pursuant to Senate Rule 94, Subsection (g), this office finds the fiscal implications of Senate Bill No. 1149 (relating to the financing and conduct of primary elections) to be as follows:

The probable savings from implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Savings to the General Revenue Fund</u>
1980	\$ 300,000
1981	300,000
1982	300,000
1983	300,000
1984	300,000

Similar annual savings would continue as long as the provisions of the bill are in effect.

No fiscal implication or additional cost to units of local government attributable to the bill, should it be enacted, is anticipated.


Thomas M. Keel
Director

Source: Secretary of State; LBB Staff

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 23, 1979

Honorable William T. (Bill) Moore, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

In Re: Senate Bill No. 1149
By: Meier

Sir:


In response to your request pursuant to Senate Rule 94, Subsection (g), this office finds the fiscal implications of Senate Bill No. 1149 (relating to the financing and conduct of primary elections) to be as follows:

The probable savings from implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Savings to the General Revenue Fund</u>
1980	\$ 300,000
1981	300,000
1982	300,000
1983	300,000
1984	300,000

Similar annual savings would continue as long as the provisions of the bill are in effect.

No fiscal implication or additional cost to units of local government attributable to the bill, should it be enacted, is anticipated.


Thomas M. Keel
Director

Source: Secretary of State; LBB Staff

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 27, 1979

Honorable William T. (Bill) Moore, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

In Re: Senate Bill No. 1149, as
amended
By: Meier

Sir:

In response to your request pursuant to Senate Rule 94, Subsection (g), this office finds the fiscal implications of Senate Bill No. 1149, as amended (relating to the financing and conduct of primary elections), to be as follows:

The bill requires that all elections be held in public buildings free of charge; therefore, the probable savings from implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Savings to the General Revenue Fund</u>
1980	\$ 300,000
1981	300,000
1982	300,000
1983	300,000
1984	300,000

However, should no public building be available, the savings would be reduced accordingly.

The bill contains a provision allowing the Secretary of State to require county chairmen to remit a portion of the county primary fund, should a deficit exist in the state primary fund resulting from the cost of conducting the primary election. This provision would affect predominantly rural counties where the surplus exists. The Secretary of State's office estimates that there is a \$150,000 balance in the county primary funds now. The amount available for state expenditure, should the need arise, is not determinable.

Similar annual savings would continue as long as the provisions of the bill are in effect.

No fiscal implication or additional cost to units of local government attributable to the bill, should it be enacted, is anticipated.


Thomas M. Keel
Director

Source: Secretary of State; LBB Staff

BILL ANALYSIS

PURPOSE: To amend provisions in the Texas Election Code which relate to the financing and conducting of primary elections.

SECTION ANALYSIS

Section 1: Amends Article 13.08 of V.T.E.C. to state that filing fees obtained from the various candidates are state money and may be used only as provided in this code. The secretary of state may prescribe procedures for accounting of such fees. In addition to the stated requirements of the state chairman forwarding an itemized list of filing fees for state and district offices and the forwarding of all fees for district offices for the county chairman, notification shall be made to the secretary of the amount sent to each county.

Section 2: Amends Article 13.08 of V.T.E.C. by adding subsection (n) which provides that the secretary may require the county chairman to file a written report and any documentation necessary to verify that report on fees paid to the county chairman.

Section 3: Amends Article 13.08a of V.T.E.C. to increase the time limit that the secretary has to file a sworn itemized estimate of the costs for conducting the first primary election from 30 to 45 days. If the secretary determines that a sum greater than three-fourths of the fees collected, is necessary or desirable for the proper holding of primary, secondary or runoff primary elections, then the comptroller shall issue a warrant; and adds that the warrant may also be issued upon the direction of the secretary to pay a greater amount.

Deletes the provision that a county chairman shall not be personally liable except for misappropriation of funds.

Section 4: Amends Article 13.08a of V.T.E.C. by adding subsection (j) and (k):

(j) the county chairman shall secure approval of the secretary before entering into a contract, if before submission of costs of the primary election, that involves the expenditure of primary funds. The secretary may disallow any item of expenditure contracted for without the approval required therein.

(k) The secretary may establish reasonable conditions on the expenditure of state money to pay for professional services retained by a county chairman.

Section 5: Amends Article 13.08a-1 of V.T.E.C. to increase the time limit that the secretary has to file a sworn itemized estimate for cost of conducting the first primary with a list of filing fees received and date of such estimate.

Section 6: Amends Article 13.18 of V.T.E.C. to provide that after the primary election has been held and the secretary of state has determined that a deficit exists in the state primary fund resulting from the cost of conducting such primary election, the secretary may require the county chairman to remit any excess portion of the primary fund; the secretary must allow for the retention of such necessary funds for the initial expense of the next primary. The county chairman shall be custodian of such, upon which the secretary may prescribe procedure for accounting of primary fund and inspection of the records. The county chairman shall also mail the appropriate records to the secretary.

Section 7: Amends Article 2.03 of V.T.E.C. by deleting the provision allowing a charge for the use of buildings for any expense incurred; and deletes that the authority liable for the expenses incurred may demand an itemized list before making such remittance for the expense.

Section 8: Emergency clause.

Strike Section 6 of the bill as it presently reads and replace with the following Section:

"SECTION 6. Subdivision 5, Section 196, Texas Election Code, as amended (Article 13.18, Vernon's Texas Election Code), is amended to read as follows:

¹⁹⁷⁹
Subdiv⁵ 5. The funds received by the county executive committee from contributions, fees and assessments paid by candidates, and expenses paid by the secretary of state shall constitute the primary fund, and any surplus remaining in the fund after payment of the necessary expenses for holding the primary elections for that year shall be retained in the primary fund, and the balance reported to the secretary of state as required by Section 186a of this code. The county executive committee is authorized to invest the primary fund by deposit with any federally insured institution; provided, however, that the required length of time of the deposit shall not extend beyond 30 days prior to the next general primary election. After the primary election has been held and the secretary of state has determined that a deficit exists in the state primary fund resulting from the cost of conducting the primary election, then the secretary of state may require the county chairman to remit a portion of the balance in the county primary fund if the secretary determines that an excess of funds ^{is} are in the county primary fund; however, the secretary must allow for the retention of a surplus amount which, in his opinion, will be adequate for the chairman to use for initial expenses for the next primary election. The county chairman is the custodian of the county primary fund and serves in that capacity as a fiduciary for the fund. The secretary of state by directive may prescribe procedures for accounting for the county primary fund, including the keeping of checks, receipts, invoices, and other documents that indicate the nature or amount of deposits to or expenditures from the fund. The secretary may inspect any records relating to the county primary fund at any place and at any time. A county chairman shall mail the records to the secretary on request at the time specified by the secretary.

ADOPTED
as amended
MAY 15 1979

Betty King
Secretary of the Senate

Com. Am. # ①

Strike Section 6 of the bill as it presently reads and replace with the following Section:

"SECTION 6. Subdivision 5, Section 196, Texas Election Code, as amended (Article 13.18, Vernon's Texas Election Code), is amended to read as follows:

Subdiv. 5. The funds received by the county executive committee from contributions, fees and assessments paid by candidates, and expenses paid by the secretary of state shall constitute the primary fund, and any surplus remaining in the fund after payment of the necessary expenses for holding the primary elections for that year shall be retained in the primary fund, and the balance reported to the secretary of state as required by Section 186a of this code. The county executive committee is authorized to invest the primary fund by deposit with any federally insured institution; provided, however, that the required length of time of the deposit shall not extend beyond 30 days prior to the next general primary election. After the primary election has been held and the secretary of state has determined that a deficit exists in the state primary fund resulting from the cost of conducting the primary election, then the secretary of state may require the county chairman to remit a portion of the balance in the county primary fund if the secretary determines that an excess of funds are in the county primary fund; however, the secretary must allow for the retention of a surplus amount which, in his opinion, will be adequate for the chairman to use for initial expenses for the next primary election. The county chairman is the custodian of the county primary fund and serves in that capacity as a fiduciary for the fund. The secretary of state by directive may prescribe procedures for accounting for the county primary fund, including the keeping of checks, receipts, invoices, and other documents that indicate the nature or amount of deposits to or expenditures from the fund. The secretary may inspect any records relating to the county primary fund at any place and at any time. A county chairman shall mail the records to the secretary on request at the time specified by the secretary.

Amendment No. 1

committee amendment to By Meier #1

Make the following amendments to Senate Bill 1149:

1) At Section 6 subdivision 5, line 38, page 4 add following the word "fund" and before the period the following: and the inspection of any record relating to the primary fund.

2) Strike the sentence beginning with the word "The" at line 38, page 4 and ending with the word "time." at line 39, page 4.

ADOPTED

MAY 15 1979

Betty King
Secretary of the Senate

Amendment No. 2

By Weller

Amend Senate Bill 1149 at line 52, page 4 by striking Section 7 of
the bill.

ADOPTED

MAY 15 1979

Debra King
Secretary of the Senate

Amend the cantion to conform to the
body of the bill

ADOPTED

MAY 15 1979

Betty King
Secretary of the Senate

Relating to the financing and conduct of primary elections.

MAR 14 1979 Filed with the Secretary of the Senate

MAR 15 1979 Read, referred to Committee on STATE AFFAIRS

MAR 27 1979 Reported favorably. as amended

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed.

MAY 15 1979 Senate and Constitutional Rules to permit consideration suspended by unanimous consent.
21 yeas, 10 nays.

To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

MAY 15 1979 Read second time amended and ordered engrossed.

MAY 22 1979 Laid before Senate, order engrossed by 17 yeas, 14 nays
Caption ordered amended to conform to body of bill.

Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas, _____ nays to place bill on third reading and final passage.

Read third time and passed by { a viva-voce vote.
_____ yeas, _____ nays.

OTHER ACTION:

Secretary of the Senate

MAR 28 1979 Motion to suspend Regular Order lost 16 yeas

MAY 15 1979 Motion to suspend Regular Order lost 15 yeas
by 20 yeas 11 nays

Engrossed

Sent to HOUSE

ENGROSSING CLERK

Received from the Senate

Read first time and referred to Committee on _____

Reported favorably amended, sent to Printer at _____

Printed and Distributed _____

Sent to Committee on Calendars _____

Read Second time (amended): passed to third reading (failed)
by (Non-Record Vote) Record Vote of _____ yeas, _____ nays
_____ Present, not voting.

Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas _____ nays _____ present not voting.

Read third time (amended); finally passed (failed) by a (Non-Record Vote) Record Vote of _____ yeas _____ nays _____ present not voting.

Caption ordered amended to conform to body of bill.

Returned to Senate.

Chief Clerk of the House